IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO.81 OF 2001

IN

WRIT PETITION NO.1228 OF 2001

Rallis Group Employees Union ...Petitioner

Vs.

Rallis India Ltd. & Ors. ...Respondents

Mr M.D. Nagle for the Petitioner.
Mr J.D. Cama i/by R.M.G. Law Associate for the Respondent No.1.

CORAM : S.K.SHAH, J.
DATE : NOVEMBER 19, 2005.

P.C.:

1. This Court while disposing of Writ Petition No.1228 of 2001 passed the following order:

> . In the circumstances, the Writ Petition is disposed of, incorporating the statement and assurance of the Learned Counsel appearing on behalf of the First

> Respondent to the effect (i) that the Fifth Respondent is ready and willing to take on its roll all those employees of the Pharmaceutical Business Undertaking of the first Respondent without interruption in service and on conditions of service which are no less favourable than those which are applicable to them at present, (ii) that those employees who do not wish to accept a transfer to the Fifth Respondent as an employer, shall continue in the service of the First Respondent subject to the rights, if any, of the first Respondent to have recourse to the Industrial Disputes Act, 1947, (iii) the 13 employees in the Head Office shall be permitted to continue therein during the pending of the complaint, with these observations, the Writ Petition is disposed of. No order as to costs.

2. The grievance which is made in the Petition is that after disposal of the Writ Petition, Petitioner's services were terminated by letter dated 30th June, 2001.

3. The learned Counsel for the Petitioner submits that in view of the paragraph No.(ii) of the Order, the Court had directed the First Respondent-Company to continue the services of the Petitioners who did not

wish to accept the transfer to the Fifth Respondent as an employer. Despite this, the Respondent (who is the Respondent No.1 in the Writ Petition) have terminated their services.

4. The learned Counsel for the Respondent No.1 submits that on transfer of Pharmaceuticals Business Undertaking by the First Respondent to the Fifth Respondent in virtue of provisions of Section 25FF of the Industrial Disputes Act, the services of the Petitioners who did not accept the transfer of their services to the purchasers of the undertaking i.e. the Respondent No.5 had an effect of terminating their services and the liability on the First Respondent was only to pay the compensation under section 25FF of the Industrial Disputes Act. He further submits that by the letter dated 30th June, 2001, the services of the Petitioners were terminated and they were given the compensation as per the provisions of section 25FF of the Industrial Disputes Act. He further submits that there is no contempt committed by the Respondents. He also submits that this recourse of the Industrial Disputes Act was available to the Respondents even as per clause (ii) of the order.

5. There is no dispute that the Pharmaceutical Business Undertaking which is belonging to the First Respondent was transferred to the Fifth Respondent. By clause (i) of the order the Fifth Respondent being

ready and willing to give on its own all those employees of the Pharmaceutical Business Undertaking of the First Respondent without interruption in service and on conditions of service which are no less favourable than those which are applicable to them at present. The services of the employees who were ready to take transfer were continued. However, those employees who did not wish to accept the transfer of services to the Fifth Respondent, the Court left their cases to be considered by the First Respondent/Respondents herein. He was directed to continue their services subject to rights of the first Respondent who have recoursed the Industrial Disputes Act. This being the position, on transfer of the undertaking, the services of the Petitioners who did not accept the transfer of service to the Fifth Respondent, the Respondent had come to an end. For this the reliance can be placed on observations of the learned Single Judge of this Court made in the case of Suresh Baburao Bhandare Vs. Adminstrator, Saswad Mali Shahakari Sakhar Karkhana Ltd. Malinagar & Anr. reported in 1992 I CLR, Page 309. The relevant observations are as under:

> In such a contingency, Section 25FF provides that unless the three conditions stipulated in the proviso are simultaneously fulfilled, the service of employee shall deem to have come to an end on the date of transfer and the workman shall be entitled to notice and

compensation under Section 25-F of the Act, as it retrenched.

Thus, the Petitioner having not accepted the transfer of service, the effect was that their services had come to an end and the liability of the Respondent No.1 was only to pay to them the compensation as contemplated in section 25FF of the Industrial Disputes Act.

6. This being the position, there is no question of the Respondents having committed any contempt of Court passed in the Writ Petition. As such the Contempt Petition is disposed of.

7. The show cause notice no.79 of 2002 stands discharged.

[S.K.Shah , J.]